

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

DONALD RICHARDSON,

Plaintiff,

Case No. 12-10131

v.

HONORABLE AVERN COHN

COMMISSIONER OF SOCIAL SECURITY,

Defendant.

_____ /

ORDER ADOPTING REPORT AND RECOMMENDATION (Doc. 32)
AND
GRANTING PLAINTIFF'S APPLICATION FOR ATTORNEYS' FEES (Doc. 26)

I.

This is a social security case. Plaintiff Donald Richardson appealed from the final determination of the Commissioner of Social Security (Commissioner) that he is not disabled and therefore not entitled to disability insurance benefits. The matter was referred to a magistrate judge for all pretrial proceedings. Plaintiff and the Commissioner filed cross motions for summary judgment. The magistrate judge issued a report and recommendation (MJRR) recommending that plaintiff's motion be granted as to a remand and the Commissioner's motion be denied. Neither party objected. The Court adopted the MJRR and remanded the matter. (Doc. 24).

Thereafter, plaintiff filed an application for attorney fees (Doc. 32), requesting \$7,096.29 in fees and costs. The Commissioner responded, arguing that the amount requested should be reduced. (Doc. 28). The Court referred the petition to the magistrate judge for a report and recommendation. The magistrate judge recommends that the petition be granted and plaintiff be awarded \$6,416.35 in fees and costs. In so

doing, the magistrate judge carefully explained the reasons for the reduction from the requested amount. The magistrate judge also recommends (MJRR at p. 2) that

the Commissioner be ordered to determine, within 14 days of a final order granting the motion, whether Plaintiff owes the Government a pre-existing debt. If no such debt is owed, payment of such fees should be made directly to Plaintiff's attorney. If Plaintiff does owe a debt, the EAJA fees should be offset by the amount of the debt, and the payment of any remaining fees should be made directly to Plaintiff's attorney.

II.

Neither party has filed objections to the MJRR and the time for filing objections has passed. The failure to file objections to the report and recommendation waives any further right to appeal. Smith v. Detroit Federation of Teachers Local 231, 829 F.2d 1370, 1373 (6th Cir.1987). Likewise, the failure to object to the magistrate judge's report releases the Court from its duty to independently review the motions. Thomas v. Arn, 474 U.S. 140, 149 (1985).

However, the Court has reviewed the MJRR and agrees with the magistrate judge. Accordingly, the findings and conclusions of the magistrate judge are ADOPTED as the findings and conclusions of the Court. Plaintiff's application for attorneys' fees is GRANTED.

SO ORDERED.

s/Avern Cohn
AVERN COHN
UNITED STATES DISTRICT JUDGE

Dated: August 28, 2013

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COMMISSIONER OF SOCIAL SECURITY

I hereby certify that a copy of the foregoing document was mailed to the attorneys of record on this date, August 28, 2013, by electronic and/or ordinary mail.

s/Sakne Chami
Case Manager, (313) 234-5160